

# News from Ed Markey

United States Congress

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Massachusetts Seventh District

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## **Markey Letter to Chairman Jackson of the NRC Regarding Conflict of Interest**

Shirley Ann Jackson  
Chairman  
Nuclear Regulatory Commission  
Washington, DC 20555

Dear Ms. Jackson;

I am writing in regard to the Nuclear Regulatory Commission's (NRC's) consulting contract with the accounting firm Arthur Andersen. I understand that Arthur Andersen has been hired by the Commission to consult on the NRC's regulatory reform efforts. According to the Statement of Work, "The primary focus of this task is to provide assistance in the area of program assessment and evaluation." The work is to support "a top down assessment of all the programs and activities of the Office of Nuclear Reactor Regulation including those NRR activities which are carried out by the regional offices." Among the "range of assessment services" to be provided by the contractor is "conducting independent assessments of selected programs." Contracting for such services from a company entangled with the industry that your agency regulates raises questions of objectivity and conflict of interest which I believe the NRC must address.

As you may know, over the last several years both the Securities and Exchange Commission and key self-regulatory bodies that establish professional standards for the accounting profession have become increasingly concerned over the potential conflicts of interest which arise when accountants perform both auditing functions and consultative services for the same clients. As reported by Elizabeth MacDonald in a November 4, 1998 Wall Street Journal article, "Accounting Rule Seeks Disclosure on Consulting," the Independence Standards Board has recently proposed that auditors be required to explain to their auditing clients "why their consulting contracts haven't affected the objectivity of their financial-statement audits." It seems equally likely that an accounting firm's private sector auditing and management consulting businesses might affect the objectivity of their consulting work for a federal regulator. I fully support the Commission's initiative in seeking outside assistance to improve the efficiency and effectiveness of its activities, but am concerned-as I am sure you are-that it receive the best and most unbiased possible advice.

At my direction, my staff undertook a cursory review of the SEC filings of several major nuclear utilities. This review revealed that Arthur Andersen is the independent auditor for Unicom (Commonwealth Edison), Northeast Utilities, CMS Energy (Consumers Energy), Georgia Power, and several other nuclear utilities. In addition to its auditing business, the firm most likely has consulting contracts with these or other NRC licensees. In light of the company's ties to the nuclear industry, I request your assistance in understanding what steps have been taken to prevent such financial ties from influencing Arthur Andersen's findings or recommendations to the NRC:

1. Please provide a list of all NRC licensees who have employed Arthur Andersen as an auditor or as a consultant within the last five years. How much revenue has Arthur Andersen received from these contracts? Please also give the dollar amount (or range of possible amounts) Arthur Andersen is receiving from the NRC contract.
2. Could Arthur Andersen's activities for the NRC affect regulation or oversight of or have other financial effects on NRC licensees that are clients of the firm?
3. In awarding the contract to Arthur Andersen and determining the scope of the consultant's work, has the NRC considered the potential for a conflict of interest? If so, what was done to limit or eliminate such conflicts? How is Arthur Andersen's ongoing work being monitored to assure that the advice or recommendations it makes are not colored by possible conflicts of interest?

Thank you for your assistance. If you have questions concerning this letter please feel free to contact Mr. Lowell Ungar or Mr. Jeffrey Duncan on my staff at (202)225-2836.

Sincerely,

Edward J. Markey  
Member of Congress